

AN ACT concerning local government.

Be it enacted by the People of the State of Illinois,
represented in the General Assembly:

Section 5. The Illinois State Auditing Act is amended by
changing Section 3-1 as follows:

(30 ILCS 5/3-1) (from Ch. 15, par. 303-1)

Sec. 3-1. Jurisdiction of Auditor General. The Auditor
General has jurisdiction over all State agencies to make post
audits and investigations authorized by or under this Act or
the Constitution.

The Auditor General has jurisdiction over local
government agencies and private agencies only:

(a) to make such post audits authorized by or under
this Act as are necessary and incidental to a post audit
of a State agency or of a program administered by a State
agency involving public funds of the State, but this
jurisdiction does not include any authority to review
local governmental agencies in the obligation, receipt,
expenditure or use of public funds of the State that are
granted without limitation or condition imposed by law,
other than the general limitation that such funds be used
for public purposes;

(b) to make investigations authorized by or under
this Act or the Constitution; and

(c) to make audits of the records of local
government agencies to verify actual costs of
state-mandated programs when directed to do so by the
Legislative Audit Commission at the request of the State
Board of Appeals under the State Mandates Act.

In addition to the foregoing, the Auditor General may
conduct an audit of the Metropolitan Pier and Exposition

Authority, the Regional Transportation Authority, the Suburban Bus Division, the Commuter Rail Division and the Chicago Transit Authority and any other subsidized carrier when authorized by the Legislative Audit Commission. Such audit may be a financial, management or program audit, or any combination thereof.

The audit shall determine whether they are operating in accordance with all applicable laws and regulations. Subject to the limitations of this Act, the Legislative Audit Commission may by resolution specify additional determinations to be included in the scope of the audit.

In addition to the foregoing, the Auditor General must also conduct a financial audit of the Illinois Sports Facilities Authority's expenditures of public funds in connection with the reconstruction, renovation, remodeling, extension, or improvement of all or substantially all of any existing "facility", as that term is defined in the Illinois Sports Facilities Authority Act.

The Auditor General may also conduct an audit, when authorized by the Legislative Audit Commission, of any hospital which receives 10% or more of its gross revenues from payments from the State of Illinois, Department of Public Aid, Medical Assistance Program.

The Auditor General is authorized to conduct financial and compliance audits of the Illinois Distance Learning Foundation and the Illinois Conservation Foundation.

As soon as practical after the effective date of this amendatory Act of 1995, the Auditor General shall conduct a compliance and management audit of the City of Chicago and any other entity with regard to the operation of Chicago O'Hare International Airport, Chicago Midway Airport and Merrill C. Meigs Field. The audit shall include, but not be limited to, an examination of revenues, expenses, and transfers of funds; purchasing and contracting policies and

practices; staffing levels; and hiring practices and procedures. When completed, the audit required by this paragraph shall be distributed in accordance with Section 3-14.

The Auditor General shall conduct a financial and compliance and program audit of distributions from the Municipal Economic Development Fund during the immediately preceding calendar year pursuant to Section 8-403.1 of the Public Utilities Act at no cost to the city, village, or incorporated town that received the distributions.

The Auditor General must conduct an audit of the Health Facilities Planning Board pursuant to Section 19.5 of the Illinois Health Facilities Planning Act.

The Auditor General must conduct an annual audit of the water fund of a county water commission organized pursuant to the Water Commission Act of 1985.

(Source: P.A. 90-813, eff. 1-29-99; 91-782, eff. 6-9-00; 91-935, eff. 6-1-01.)

Section 10. The Illinois Municipal Code is amended by changing Section 11-124-1 as follows:

(65 ILCS 5/11-124-1) (from Ch. 24, par. 11-124-1)

Sec. 11-124-1. Contracts for supply of water.

(a) The corporate authorities of each municipality may contract with any person, corporation, municipal corporation, political subdivision, public water district or any other agency for a supply of water. Any such contract entered into by a municipality shall provide that payments to be made thereunder shall be solely from the revenues to be derived from the operation of the waterworks system of the municipality, and the contract shall be a continuing valid and binding obligation of the municipality payable from the revenues derived from the operation of the waterworks system

of the municipality for the period of years, not to exceed 40, as may be provided in such contract. Any such contract shall not be a debt within the meaning of any constitutional or statutory limitation. No prior appropriation shall be required before entering into such a contract and no appropriation shall be required to authorize payments to be made under the terms of any such contract notwithstanding any provision in this Code to the contrary. (a) Payments to be made under any such contract shall be an operation and maintenance expense of the waterworks system of the municipality. Any such contract made by a municipality for a supply of water may contain provisions whereby the municipality is obligated to pay for such supply of water without setoff or counterclaim and irrespective of whether such supply of water is ever furnished, made available or delivered to the municipality or whether any project for the supply of water contemplated by any such contract is completed, operable or operating and notwithstanding any suspension, interruption, interference, reduction or curtailment of the supply of water from such project. Any such contract may provide that if one or more of the other purchasers of water defaults in the payment of its obligations under such contract or a similar contract made with the supplier of the water, one or more of the remaining purchasers party to such contract or such similar contract shall be required to pay for all or a portion of the obligations of the defaulting purchasers. (b) Payments to be made under any such contract with a municipal joint action water agency under the Intergovernmental Cooperation Act shall be an operation and maintenance expense of the waterworks system of the municipality. Any such contract made by a municipality for a supply of water with a municipal joint action water agency under the provisions of the Intergovernmental Cooperation Act may contain provisions

whereby the municipality is obligated to pay for such supply of water without setoff or counterclaim and irrespective of whether such supply of water is ever furnished, made available or delivered to the municipality or whether any project for the supply of water contemplated by any such contract is completed, operable or operating and notwithstanding any suspension, interruption, interference, reduction or curtailment of the supply of water from such project. Any such contract with a municipal joint action water agency may provide that if one or more of the other purchasers of water defaults in the payment of its obligations under such contract or a similar contract made with the supplier of the water, one or more of the remaining purchasers party to such contract or such similar contract shall be required to pay for all or a portion of the obligations of the defaulting purchasers.

The changes in this Section made by these amendatory Acts of 1984 are intended to be declarative of existing law.

(b) A municipality with a water supply contract with a county water commission organized pursuant to the Water Commission Act of 1985 shall provide water to unincorporated areas of that home county in accordance with the terms of this subsection. The provision of water by the municipality shall be in accordance with a mandate of the home county as provided in Section 0.01 of the Water Commission Act of 1985. A home rule unit may not provide water in a manner that is inconsistent with the provisions of this amendatory Act of the 93rd General Assembly. This subsection is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

(Source: P.A. 83-1123; 83-1524.)

Section 15. The Water Commission Act of 1985 is amended

by changing Section 2 and by adding Sections 0.01, 0.02, 0.03, 0.04, and 0.05 as follows:

(70 ILCS 3720/2) (from Ch. 111 2/3, par. 252)

Sec. 2. The General Assembly hereby finds and declares that it is necessary and in the public interest to help assure a sufficient and economic supply of a source of water within those county wide areas of this State where, because of a growth in population and proximity to large urban centers, the health, safety and welfare of the residents is threatened by an ever increasing shortage of a continuing, available and adequate source and supply of water on an economically reasonable basis; however, it is not the intent of the General Assembly to interfere with the power of municipalities to provide for the retail distribution of water to their residents or the customers of their water systems. Therefore, in order to provide for a sufficient and economic supply of water to such areas, it is hereby declared to be the law of this State that:

(a) With respect to any water commission constituted pursuant to Division 135 of the Illinois Municipal Code or established by operation of law under Public Act 83-1123, as amended, which water commission includes municipalities which in the aggregate have within their corporate limits more than 50% of the population of a county (hereinafter referred to as a "home county"), and such county is contiguous to a county which has a population in excess of 1,000,000 inhabitants, the provisions of this Act shall apply. With respect to any such water commission (hereinafter referred to as a "county water commission"):

(i) the terms of all commissioners of such commission holding office at the time a water commission becomes a county water commission shall terminate 30 days after such time and new commissioners shall be appointed

as the governing board of the county water commission as hereinafter provided in subsection (c); and

(ii) the county water commission shall continue to be a body corporate and politic, and shall bear the name of the home county but shall be independent from and not a part of the county government and shall itself be a political subdivision and a unit of local government, and upon appointment of the new commissioners as the governing board of such water commission as provided in subsection (c), such water commission shall remain responsible for the full payment of, and shall by operation of law be deemed to have assumed and shall pay when due all debts and obligations of the commission as the same is constituted and as such debts and obligations existed on the date such water commission becomes a county water commission and such additional debts and obligations as are incurred by such commission after such date and prior to the appointment of the new commissioners as the governing board of such commission, and further shall continue to have and exercise all powers and functions and duties of a water commission created pursuant to Division 135 of the Illinois Municipal Code, as now or hereafter amended, and the county water commission may rely on that Division, as modified and supplemented by the provisions of this Act, as lawful authority under which it may act.

(b) Any county water commission shall have as its territory within its corporate limits, subject to taxation for its purposes, and subject to the powers and limitations as conferred by this Act, (i) all of the territory of the home county except that territory located within the corporate limits of excluded units as hereinafter defined and (ii) also all of the territory located outside the home county and included within the corporate limits of an

included unit as hereinafter defined. As used in this Act, "excluded unit" means a unit of local government having a waterworks system and having within its corporate limits territory within the home county and which, at the time any commission becomes a county water commission, receives, or has contracted at such time for the receipt of, more than 25% of the water distributed by such unit's water system from a source outside of the home county. As used in this Section, "included unit" means any unit of local government having a waterworks system and having within its corporate limits territory within the home county, which unit of local government is not an excluded unit. No other water commission shall be constituted under Division 135 of the Illinois Municipal Code in any home county after the effective date of this Act to provide water from any source located outside the home county. Except as authorized by a county water commission, no home county or included unit shall enter into any new or renew or extend any existing contract, agreement or other arrangement for the acquisition or sale of water from any source located outside a home county; provided, however, that any included unit may contract for a supply of water in case of a temporary emergency from any other unit of local government or any entity. In the event that any included unit elects to serve retail customers outside its corporate boundaries and to establish rates and charges for such water in excess of those charged within its corporate boundaries, such rates and charges shall have a reasonable relationship to the actual cost of providing and delivering the water; this provision is declarative of existing law. It is declared to be the law of this State pursuant to paragraphs (g) and (h) of Section 6 of Article VII of the Illinois Constitution that in any home county, the provisions of this Act and Division 135 of the Illinois Municipal Code, as modified and supplemented by this

Act and this amendatory Act of the 93rd General Assembly, constitute a limitation upon the power of any such county and upon all units of local government (except excluded units) within such county, including home rule units, limiting to such county, units of local government and home rule units the power to acquire, supply or distribute water or to establish any water commission for such purposes involving water from any source located outside the home county in a manner other than as provided or permitted by this Act and Division 135, as modified and supplemented by this Act, and further constitute an exercise of exclusive State power with respect to the acquisition, supply and distribution of water from any source located outside the home county by any such county and by units of local government (except excluded units), including home rule units, within such county and with respect to the establishment for such purposes of any water commission therein, which power may not be exercised concurrently by any unit of local government or home rule unit. Upon the request of any included unit, a county water commission shall provide such included unit Lake Michigan water in an amount up to the then current Department of Transportation allocation of Lake Michigan water for such included unit.

With respect to a water commission to which the provisions of subsection (a) apply, all uninhabited territory that is owned and solely occupied by such a commission and is located not within its home county but within a non-home rule municipality adjacent to its home county shall, notwithstanding any other provision of law, be disconnected from that municipality by operation of this Act on the effective date of this amendatory Act of 1991, and shall thereafter no longer be within the territory of the municipality for any purpose; except that for the purposes of any statute that requires contiguity of territory, the

territory of the water commission shall be disregarded and the municipality shall not be deemed to be noncontiguous by virtue of the disconnection of the water commission territory.

(c) The governing body of any water commission to which the provisions of subsection (a) apply shall be a board of commissioners, each to be appointed within 30 days after the water commission becomes a county water commission to a term commencing on such date, as follows:

(i) one commissioner, who shall serve as chairman, who shall be a resident of the home county, to be appointed by the chairman of the county board of such county with the advice and consent of the county board, provided that following the expiration of the term or vacancy of the current chairman serving on the effective date of this amendatory Act of the 93rd General Assembly, any subsequent appointment as chairman shall also be subject to the advice and consent of the county water commission;

(ii) one commissioner from each county board district within the home county, to be appointed by the chairman of the county board of the home county with the advice and consent of the county board; and

(iii) one commissioner from each county board district within the home county, to be appointed by the majority vote of the mayors of those included units which are municipalities and which have the greatest percentage of their respective populations residing within such county board district of the home county.

The mayors of the respective county board districts shall meet for the purpose of making said respective appointments at a time and place designated by that mayor in each county board district of the included unit with the largest population voting for a commissioner upon not less than 10

days' written notice to each other mayor entitled to vote.

The commissioners so appointed shall serve for a term of 6 years, or until their successors have been appointed and have qualified in the same manner as the original appointments, except that at the first meeting of such commissioners, (A) the commissioners first appointed pursuant to paragraph (ii) of this subsection shall determine publicly by lot 1/3 of their number to serve for terms of 2 years, 1/3 of their number to serve for terms of 4 years and 1/3 of their number to serve for terms of 6 years, any odd number of commissioners so determined by dividing into thirds to serve 6 year terms, and (B) the commissioners first appointed pursuant to paragraph (iii) of this subsection shall determine publicly by lot 1/3 of their number to serve for terms of 2 years, 1/3 of their number to serve for terms of 4 years and 1/3 of their number to serve for terms of 6 years, any odd number of commissioners so determined by dividing into thirds to serve 6 year terms. The commissioner first appointed pursuant to paragraph (i) of this subsection, who shall serve as chairman, shall serve for a term of 6 years. Any commissioner may be a member of the governing board or an officer or employee of such county or any unit of local government within such county. A commissioner is eligible for reappointment upon the expiration of his term. A vacancy in the office of a commissioner shall be filled for the balance of the unexpired term by appointment and qualification as to residency in the same manner as the original appointment was made. Each commissioner shall receive the same compensation which shall not be more than \$600 per year, except that no such commissioner who is a member of the governing board or an officer or employee of such county or any unit of local government within such county may receive any compensation for serving as a commissioner. Each commissioner may be removed by the

appointing authority for any cause for which any other county or municipal officer may be removed. The county water commission shall determine its own rules of proceeding. A quorum shall be a majority of the commissioners then in office. All ordinances or resolutions shall be passed by not less than a majority of a quorum. No commissioner or employee of the commission, no member of the county board or other official elected within such county, no mayor or president or other member of the corporate authorities of any unit of local government within such county, and no employee of such county or any such unit of local government, shall be interested directly or indirectly in any contract or job of work or materials, or the profits thereof, or services to be performed for or by the commission. A violation of any of the foregoing provisions of this subsection is a Class C misdemeanor. A conviction is cause for the removal of a person from his office or employment.

(d) Except as provided in subsection (g), subject to the referendum provided for in subsection (e), a county water commission may borrow money for corporate purposes on the credit of the commission, and issue general obligation bonds therefor, in such amounts and form and on such conditions as it shall prescribe, but shall not become indebted in any manner or for any purpose in an amount including existing indebtedness in the aggregate to exceed 5.75% of the aggregate value of the taxable property within the territorial boundaries of the county water commission, as equalized and assessed by the Department of Revenue and as most recently available at the time of the issue of said bonds. Before or at the time of incurring any indebtedness, except as provided in subsection (g), the commission shall provide for the collection of a direct annual tax, which shall be unlimited as to rate or amount, sufficient to pay the interest on such debt as it falls due and also to pay and

discharge the principal thereof at maturity, which shall be within 40 years after the date of issue thereof. Such tax shall be levied upon and collected from all of the taxable property within the territory of the county water commission. Dissolution of the county water commission for any reason shall not relieve the taxable property within such territory of the county water commission from liability for such tax. The clerk of the commission shall file a certified copy of the resolution or ordinance by which such bonds are authorized to be issued and such tax is levied with the County Clerk of each county in which any of the territory of the county water commission is located and such filing shall constitute, without the doing of any other act, full and complete authority for each such County Clerk to extend such tax for collection upon all the taxable property within the territory of the county water commission subject to such tax in each and every year required sufficient to pay the principal of and interest on such bonds, as aforesaid, without limit as to rate or amount, and shall be in addition to and in excess of all other taxes authorized to be levied by the commission or any included unit. The general obligation bonds shall be issued pursuant to an ordinance or resolution and may be issued in one or more series, and shall bear such date or dates, mature at such time or times and in any event not more than 40 years from the date thereof, be sold at such price at private or public sale as determined by a county water commission, bear interest at such rate or rates such that the net effective interest rate received upon the sale of such bonds does not exceed the maximum rate determined under Section 2 of the Bond Authorization Act, which rates may be fixed or variable, be in such denominations, be in such form, either coupon or registered, carry such conversion, registration, and exchange privileges, be executed in such manner, be payable in such medium of

payment at such place or places within or without the State of Illinois, be subject to such terms of redemption, and contain or be subject to such other terms as the ordinance or resolution may provide, and shall not be restricted by the provisions of any other terms of obligations of public agencies or private persons.

(e) No issue of general obligation bonds by a county water commission (except bonds to refund an existing bonded indebtedness) shall be authorized unless the commission certifies the proposition of issuing such bonds to the proper election officials, who shall submit the proposition to the voters at an election in accordance with the general election law, and the proposition has been approved by a majority of those voting on the proposition.

The proposition shall be in the form provided in Section 5 or shall be substantially in the following form:

Shall general obligation
bonds for the purpose of
(state purpose), in the YES
sum of \$....(insert amount), -----
be issued by the NO
(insert corporate name of
the county water commission)?

(f) In order to carry out and perform its powers and functions and duties under the provisions of this Act and Division 135 of the Illinois Municipal Code, as modified and supplemented by this Act, the governing body of any county water commission may by ordinance levy annually upon all taxable property within its territory a tax at a rate not to exceed .005% of the value of such property, as equalized or assessed by the Department of Revenue for the year in which the levy is made. In addition, any county water commission

may by ordinance levy upon all taxable property within its territory, for one year only, an additional tax for such purposes at a rate not to exceed .20% of the value of such property, as equalized or assessed by the Department of Revenue for that year; provided, however, that such tax may not be levied more than once in any county water commission.

(g) Any county water commission shall have the power to borrow money, subject to the indebtedness limitation provided in subsection (d), from the home county or included units, in such amounts and in such terms as agreed by the governing bodies of the commission and the home county or included units.

(h) No county water commission constituted pursuant to the Act shall engage in the retail sale or distribution of water to residents or customers of any municipality.

(i) Nothing in the Section requires any municipality to contract with a county water commission for a supply of water.

(j) The State of Illinois recognizes that any such contract for the supply of water executed by a unit of local government and a county water commission may contain terms and conditions intended by the parties thereto to be absolute conditions thereof. The State of Illinois also recognizes that persons may loan funds to a county water commission (including, without limitation, the purchase of revenue or general obligation bonds of such commission) in reliance upon the terms and conditions of any such contract for the supply of water. Therefore, the State of Illinois pledges and agrees to those parties and persons which make loans of funds to a county water commission that it will not impair or limit the power or ability of a county water commission or a unit of local government fully to carry out the financial obligations and obligation to furnish water pursuant to the terms of any contract for the supply of water entered into by

such county water commission or unit of local government for the term of such contracts or loans. All other terms and conditions of such contracts and intergovernmental agreements shall be binding to the extent that they are not inconsistent with this amendatory Act of the 93rd General Assembly.

(Source: P.A. 87-145.)

(70 ILCS 3720/0.01 new)

Sec. 0.01. Service to areas with contaminated or tainted water.

(a) Notwithstanding the terms of a water supply contract existing on the effective date of this amendatory Act of the 93rd General Assembly, a municipality with a water supply contract with a county water commission must provide water to territories outside that municipality, provided that the territory to be served currently receives well water that is tainted or contaminated. The home county board must find that the water supply in such territory is tainted or contaminated such that the health of persons served in that territory is likely to be adversely affected now or in the future. The county water commission shall determine which municipality in the home county is most appropriate for supplying water to the territory with the contaminated wells within 30 days of a county board finding that there is a tainted or contaminated water supply.

The municipality shall provide access to water for such territory no later than 90 days after the county water commission has determined by resolution that the municipality is the most appropriate municipality for providing access to water for the territory. "Access to water" includes access through the municipal main, but the municipality need not otherwise provide infrastructure to deliver water from the municipal main. The municipality may sell water to such territory at a rate higher than the rate charged to municipal

customers, in accordance with existing law.

(b) Unless otherwise provided by law, property in unincorporated territory receiving water pursuant to subsection (a) of this Section shall not be annexed without consent of the owner of the property. A municipality's furnishing water pursuant to subsection (a) of this Section may not be conditioned on an agreement to annex. "Owner" for the purpose of this subsection is any person or persons in title, or in the case of property owned in trust, having the beneficial ownership of such property, who owned the property on the date water is first so received pursuant to subsection (a) of this Section. Upon transfer of ownership of such property, the municipality may annex it by ordinance.

(c) This amendatory Act of the 93rd General Assembly is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

(70 ILCS 3720/0.02 new)

Sec. 0.02. Rate equalization. Notwithstanding the terms of a water supply contract existing on the effective date of this amendatory Act of the 93rd General Assembly, all parties to a water supply contract with a county water commission, irrespective of whether such party is a charter member or subsequent entrant, shall pay rates equal to the rates paid by other parties to such water supply contract and shall not pay any additional fees, costs, or differentials as a condition of becoming a party to such water supply contract. Subsequent entrants to a water supply contract shall pay their pro-rata portion of the original capital costs less any rebates and the actual costs of connection to the water commission system.

(70 ILCS 3720/0.03 new)

Sec. 0.03. Water subsidy guaranty. Except to satisfy the obligations of persons who loaned funds to the county water commission, the water rates charged to municipalities that are in effect on the effective date of this amendatory Act of the 93rd General Assembly may not be increased for a period of 5 years.

(70 ILCS 3720/0.04 new)

Sec. 0.04. Five-year annual transfer of funds to home county. Beginning July 1, 2003 and prior to July 1 of each year through and including 2007, each county water commission shall from any legally available sources transfer the sum of \$15,000,000 to the county board of the home county to be used for county purposes. This amendatory Act of the 93rd General Assembly is subordinate to any legally required payment of principal, interest, or required reserve pursuant to the county water commission's debt obligations.

(70 ILCS 3720/0.05 new)

Sec. 0.05. Home rule. A municipality, including a home rule unit, must regulate its water systems and provide access to water as required under the provisions of this amendatory Act of the 93rd General Assembly. This Section is a denial and limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

Section 90. The State Mandates Act is amended by adding Section 8.27 as follows:

(30 ILCS 805/8.27 new)

Sec. 8.27. Exempt mandate. Notwithstanding Sections 6

and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act of the 93rd General Assembly.

Section 97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 99. Effective date. This Act takes effect upon becoming law.